

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 08-01789-smb

4 - - - - - x

5 SECURITIES INVESTOR PROTECTION CORPORATION,

6 Plaintiff,

7 v.

8 BERNARD L. MADOFF INVESTMENT SECURITIES, LLC, et al.,

9 Defendants.

10 - - - - - x

11

12 United States Bankruptcy Court

13 One Bowling Green

14 New York, NY 10004

15

16 August 23, 2017

17 10:11 AM

18

19

20

21 B E F O R E :

22 HON STUART M. BERNSTEIN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: J. PEREYRA

1 HEARING re Twenty-Fourth Application Of Trustee And Baker &
2 Hostetler LLP For Allowance Of Interim Compensation For
3 Services Rendered And Reimbursement Of Actual And Necessary
4 Expenses Incurred From December 1, 2016 Through March 31,
5 2017 for Baker & Hostetler, L.L.P., Trustee's Attorney,
6 period: 12/1/2016 to 3/31/2017, fee: \$35698866.30, expenses:
7 \$345286.87.

8
9 HEARING re Application for Interim Professional Compensation
10 Application Of Schiltz & Schiltz As Special Counsel To The
11 Trustee For Allowance Of Interim Compensation For Services
12 Rendered And Reimbursement Of Actual And Necessary Expenses
13 Incurred From December 1,2016 Through March 31, 2017 And For
14 Release Of A Portion Of Fees Held Back for Schiltz &
15 Schiltz, Special Counsel, period: 12/1/2016 to 3/31/2017,
16 fee: \$63987.24, expenses: \$4159.17,

17
18 HEARING re Application for Interim Professional Compensation
19 Application Of Higgs 4& Johnson (Formerly Higgs Johnson
20 Truman Bodden & Co.) As Special Counsel To The Trustee For
21 Allowance Of Interim Compensation For Services Rendered And
22 Reimbursement Of Actual And Necessary Expenses Incurred From
23 December 1, 2016 Through March 31, 2017 And For Release Of A
24 Portion Of Fees Held Back for Higgs & Johnson, Special
25 Counsel, period: 12/1/2016 to 3/31/2017, fee: \$82665.90,

1 expenses: \$1374.76.

2
3 HEARING re Application for Interim Professional Compensation
4 Application Of Soroker Agmon Nordman As Special Counsel To
5 The Trustee For Allowance Of Interim Compensation For
6 Services Rendered And Reimbursement Of Actual And Necessary
7 Expenses Incurred From December 1, 2016 Through March 31,
8 2017 And For Release Of A Portion Of Fees Held Back for
9 Soroker Agmon Nordman, Special Counsel, period: 12/1/2016 to
10 3/31/2017, fee: \$595376.55, expenses: \$23698.65.

11
12 HEARING re Twenty-Third Application of Windels Marx Lane &
13 Mittendorf, LLP for Allowance of Interim Compensation for
14 Services Rendered and Reimbursement of Actual and Necessary
15 Expenses Incurred from December 1, 2016 Through March 31,
16 2017 and Request for Partial Release of Holdback for Windels
17 Marx Lane & Mittendorf, LLP, Special Counsel, period:
18 12/1/2016 to 3/31/2017, fee:\$2,490,019.00, expenses:
19 \$32,148.05.

20
21 HEARING re Application for Interim Professional Compensation
22 Application Of Graf & Pitkowitz Rechtsanwalte GmbH As
23 Special Counsel To The Trustee For Allowance Of Interim
24 Compensation For Services Rendered And for Graf Pitkowitz
25 Rechtsanwalte GmbH, Special Counsel, period: 12/1/2016 to

1 3/31/2017, fee: \$7571.11, expenses: \$35.64.

2

3 HEARING re Application for Interim Professional Compensation
4 Application Of SCA Creque As Special Counsel To The Trustee
5 For Allowance Of Interim Compensation For Services Rendered
6 And Reimbursement Of Actual And Necessary Expenses Incurred
7 From December 1,2016 Through March 31, 2017 And For Release
8 Of A Portion Of Fees Held Back for SCA Creque, Special
9 Counsel, period: 12/1/2016 to 3/31/2017, fee: \$30215.77,
10 expenses: \$0.00.

11

12 HEARING re Application for Interim Professional Compensation
13 Application Of Young Conaway Stargatt & Taylor, LLP As
14 Special Counsel To The Trustee For Allowance Of Interim
15 Compensation For Services Rendered And Reimbursement Of
16 Actual And Necessary Expenses Incurred From December 1, 2016
17 Through March 31,2017 And For Release Of A Portion Of Fees
18 Held Back for Young Conaway Stargatt & Taylor LLP, Special
19 Counsel, period: 12/1/2016 to 3/31/2017, fee: \$61162.97,
20 expenses: \$2405.98.

21

22 HEARING re Application for Interim Professional Compensation
23 Application Of Williams, Barristers & Attorneys As Special
24 Counsel To The Trustee For Allowance Of Interim Compensation
25 For Services Rendered Incurred From December 1, 2016 Through

1 March 31,2017 And For Release Of A Portion Of Fees Held Back
2 for Williams, Barristers & Attorneys, Special Counsel,
3 period: 12/1/2016 to 3/31/2017, fee:\$310177.79, expenses:
4 \$0.00

5
6 HEARING re Application for Interim Professional Compensation
7 Application Of UGGC & Associs As Special Counsel To The
8 Trustee For Allowance Of Interim Compensation For Services
9 Rendered And Reimbursement Of Actual And Necessary Expenses
10 From December 1, 2016 Through March 31, 2017 And For Release
11 Of A Portion Of Fees Held Back for UGGC & Associates, Special
12 Counsel, period: 12/1/2016 to 3/31/2017, fee: \$60630.50,
13 expenses: \$4956.47.

14
15 HEARING re Application for Interim Professional Compensation
16 Application Of Werder Vigano As Special Counsel To The
17 Trustee For Allowance Of Interim Compensation For Services
18 Rendered From December 1, 2016 Through March 31,2017 And For
19 Release Of A Portion Of Fees Held Back for Werder Vigano,
20 Special Counsel, period: 12/1/2016 to 3/31/2017, fee:
21 \$2696.82, expenses: \$0.

22
23 HEARING re Application for Interim Professional Compensation
24 Application Of Browne Jacobson, LLP As Special Counsel To
25 The Trustee For Allowance Of Interim Compensation For

1 Services Rendered And Reimbursement Of Actual And Necessary
2 Expenses Incurred From December 1,2016 Through March 31,
3 2017 And For Release Of A Portion Of Fees Held Back for
4 Browne Jacobson, LLP, Special Counsel, period: 12/1/2016 to
5 3/31/2017, fee:\$955643.24, expenses: \$35144.25.

6
7 HEARING re Application for Interim Professional Compensation
8 Application Of Eugene F. Collins As Special Counsel To The
9 Trustee For Allowance Of Interim Compensation For Services
10 Rendered And Reimbursement Of Actual And Necessary Expenses
11 Incurred From December 1,2016 Through March 31, 2017 And For
12 Release Of A Portion Of Fees Held Back for Eugene F.
13 Collins, Special Counsel, period: 12/1/2016 to 3/31/2017,
14 fee: \$9392.77, expenses: \$0.00

15
16 HEARING re Application for Interim Professional Compensation
17 Application Of Cochran Allan As Special Counsel To The
18 Trustee For Allowance Of Interim Compensation For Services
19 Rendered Incurred From December 1, 2016 Through March 31,
20 2017 And For Release Of A Portion Of Fees Held Back for
21 Cochran Allan, Special Counsel, period: 12/1/2016 to
22 3/31/2017, fee:\$2676.15, expenses: \$0.00

23
24 HEARING re Application for Interim Professional Compensation
25 Application Of Kelley, Wolter & Scott, Professional

1 Association As Special Counsel To The Trustee For Allowance
2 Of Interim Compensation For Services Rendered From December
3 1, 2016 Through March 31, 2017 And For Release Of A Portion
4 Of Fees Held Back for Kelley, Wolter & Scott, P.A., Special
5 Counsel, period: 12/1/2016 to 3/31/2017, fee:\$4005.00,
6 expenses: \$0.00

7
8 HEARING re Application for Interim Professional Compensation
9 Application Of Triay Stagnetto Neish As Special Counsel To
10 The Trustee For Release Of A Portion Of Fees Previously Held
11 For The Prior Compensation Periods.

12
13 HEARING re Application for Interim Professional Compensation
14 Application Of Kugler Kandestin, L.L.P. As Special Counsel
15 To The Trustee For A Release Of A Portion Of Fees Previously
16 Held For The Prior Compensation Periods.

17
18 HEARING re Application for Interim Professional Compensation
19 Application Of Osborne & Osborne, P.A. As Special Counsel To
20 The Trustee For A Release Of A Portion Of Fees Previously
21 Held For The Prior Compensation Periods.

22
23 HEARING re Application for Interim Professional Compensation
24 Application Of La Tanzi, Spaulding & Landreth, P.C. As
25 Special Counsel To The Trustee For A Release Of A Portion Of

1 Fees Previously Held For The Prior Compensation Periods.

2

3 HEARING re Application for Interim Professional Compensation
4 Application Of Bedell Cristin Guernsey Partnership As
5 Special Counsel To The Trustee For A Release Of A Portion Of
6 Fees Previously Held For The Prior Compensation Periods.

7

8 HEARING re Application for Interim Professional Compensation
9 Application Of Munari Giudici Maniglio Panfili E Associati
10 As Special Counsel To The Trustee For A Release Of A Portion
11 Of Fees Previously Held For The Prior Compensation Periods.

12

13 HEARING re Application for Interim Professional Compensation
14 Application Of Ritter & Ritter Advokatur As Special Counsel
15 To The Trustee For A Release Of A Portion Of Fees Previously
16 Held For The Prior Compensation Periods.

17

18 HEARING re Application for Interim Professional Compensation
19 Application Of Tarter Krinsky & Drogin LLP As Special
20 Counsel To The Trustee For A Release Of A Portion Of Fees
21 Previously Held For The Prior Compensation Periods.

22

23

24

25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 BAKER HOSTETLER

4 Attorneys for the Trustee, Picard

5 45 Rockefeller Center

6 New York, NY 10111

7

8 BY: DAVID J. SHEEHAN

9

10 SECURITIES INVESTOR PROTECTION CORPORATION

11 1667 K Street, N.W., Suite 1000

12 Washington, D.C. 20006

13

14 BY: KEVIN H. BELL

15

16 ALSO PRESENT TELEPHONICALLY:

17

18 SEANNA R. BROWN

19 PATRICK MOHAN

20

21

22

23

24

25

1 P R O C E E D I N G S

2 CLERK: All rise. Please be seated.

3 THE COURT: Madoff.

4 MR. SHEEHAN: Your Honor, David Sheehan,
5 BakerHostetler, on behalf of the Trustee, Irving Picard.
6 This is the return date of the 24th hearing for fees and
7 allowances by the Trustee and his counsel, BakerHostetler,
8 as well as foreign counsel and (indiscernible) counsel and
9 other retaining counsel on behalf of the Trustee.

10 It's actually been sort of a significant year in
11 some ways, so I thought I'd just give Your Honor an overview
12 of that. The good faith cases, aside from some that you're
13 familiar with, actually are moving forward and we are down
14 to 240 cases that are still outstanding, worth about \$600
15 million.

16 We have settled, approximately, 60 cases this year
17 in 2017 for a total value of \$116.1 million. Following Your
18 Honor's decision in (indiscernible) territoriality, Your
19 Honor knows that we are seeking a direct appeal to the
20 Circuit that has been heard by the motions panel several
21 weeks ago. We are awaiting a decision. Either way, we
22 (indiscernible) District Court. In the meantime -- or in the
23 Circuit Court.

24 In the meantime, there are ten initial transfer
25 cases and ten subsequent cases that are so active and alive,

1 including, for example, Kingate, where all the initial
2 transferees are still there. And we are proceeding at pace,
3 as Your Honor also knows, with discovery in those cases on
4 the basis that we would still have to avoid, even if we were
5 able to reinstate the subsequent cases through a reverse of
6 the ET decision. So we might as well just keep moving
7 forward.

8 So we're aggressively pursuing discovery there;
9 Tremont, Your Honor recently heard an application to file a
10 motion in that case. I think that, by the way, has been
11 resolved between counsel at this point. So I don't think
12 we're --

13 THE COURT: What's that about?

14 MR. SHEEHAN: Tremont, we were trying -- in the
15 Kingate case to get documents from Tremont, a case we
16 settled long ago. And counsel was taking the position that
17 they shouldn't have to pay for all of that. But I think
18 we've worked it out. And, as usual, SIPC has come in and
19 stepped up and made things happen, so we could get that
20 done.

21 So, we're pretty busy even though there are a lot
22 of cases that are -- there's 87 cases that are now on
23 appeal, but we have quite a few left that we're actively
24 engaged in in discovery and litigating.

25 THE COURT: How many bad faith cases have to be

1 tried?

2 MR. SHEEHAN: How many what?

3 THE COURT: Bad faith cases?

4 MR. SHEEHAN: None.

5 THE COURT: Well, I mean, you still have the
6 Kingate...

7 MR. SHEEHAN: Oh, no, you mean to be tried? Yes,
8 there's ten. There's ten that will be tried as we stand
9 here now. And, in fact, Tremont, as Your Honor knows, is
10 still viable because they didn't have a liquidation
11 proceeding and we're moving forward with that. But that
12 case settled, and as a result we're still moving forward.
13 We're going to have, in effect, prove the initial transfer
14 because that obviously in the subsequent cases we have to do
15 that. So we're pulling that together. Because it settled
16 in the middle of all discovery.

17 So, a lot of that is still going on, and there's a
18 lot of activity in relation to that as well. Just as an
19 insight into something that I do think we should talk about
20 a little bit here today -- SIPC, you know, has been very,
21 very supportive throughout. There's news that our fees have
22 now reached \$900 million, which is true. Which SIPC's
23 president has been asked about that. We've appeared in
24 Congress several times with regard to that issue, and the
25 answer we've always given is that, would you spend 900

1 million to get 12 billion? And there never seems to be a
2 response that says, "No, I wouldn't do that."

3 So, what that highlights is, what I think is
4 important to know about SIPC, and in terms of the whole
5 process here. By having the ability to press these cases
6 forward, we get these results. For example, in the Tremont
7 case, they didn't file, as Your Honor knows, but there were
8 many cross-actions instituted and you're all in front of
9 Judge Grissett. And Grissett has been handling all of those
10 and recently there was an appeal. Because there's a huge
11 fight over a distribution there, and that's not because they
12 recovered anything; it's because we've already distributed
13 \$1.8 million to Tremont. A billion dollars to Tremont.

14 And as a result of the plan approved by Judge
15 Grissett, over 800 claimants, indirects from our
16 perspective, but claimants in Tremont, have been paid an
17 average of over \$950,000 each. So, our process by which we
18 pay back Tremont, and Tremont then litigates and figures out
19 who to pay, is we think the appropriate way to go. And we
20 don't see ourselves as running around so much as working
21 with and trying to move those cases forward.

22 Now, why dos that happen? Because Tremont had no
23 money. And, in fact, Your Honor is very familiar with this.
24 In most liquidation (indiscernible) no wherewithal to move
25 forward to bring the kind of massive litigation it takes to

1 win these cases or to be as relentless in your pursuit of it
2 to give real credibility to the cases to the point where
3 they settle, as recently happened here where we settled
4 Thema Wise and Lagoon for almost \$400 million. Why are
5 those cases settling in light of what's happened in the
6 case?

7 Well, two things: One is that they know we're
8 here and we're going to litigate, and we're not going to go
9 away, and we're not going to run out of money. And,
10 secondly, we as a result of that now, as Your Honor knows,
11 in most of our settlements what is happening is we're, in
12 effect, self-funding because the distribution is now so
13 large that they can do that. So -- that we can do that.
14 They pay us, if you will, out of the distribution and still
15 have substantial sums over. And they're banking on the
16 fact, as did all the (indiscernible) traders, that we will
17 continue.

18 And that is true. What we have pending right now,
19 a settlement that I believe will take us over \$13 billion
20 before the end of the year, and that's in another one of the
21 major fund cases. And that's in light of what I would
22 consider to be some setbacks in terms of 546 and ET -- I
23 think as a tribute. Seriously. I know it's easy for me to
24 stand here and say that, given the money that we've earned
25 through this case, but I think earned is the right verb. I

1 think we have, in fact, earned it. We're relentless, we
2 pursued these cases that way, everybody knows that.

3 On the other side are some of the most illustrious
4 law firms in the country and they all know what their
5 chances are, and they take those risks, and they litigate
6 these cases every day and yet we're able to settle. And I
7 think it's because of the fact that we are, as I say,
8 relentless and superbly funded in a way that we can bring
9 those cases forward.

10 I just thought I'd add that perspective here this
11 morning, a little bit different than what we've talked about
12 here in the past. And in that regard, what we do is we have
13 the resources -- for example, the case that's about to be
14 settled and, hopefully, bring it to Your Honor's attention
15 shortly -- and then even Thema Wise and Lagoon, those all
16 came about as a result of discovery that took place in
17 Europe, and the efforts that we had over, and the fact that
18 we have these counsel -- Your Honor's familiar with them all
19 -- from Ireland to Germany to Lichten... Luxembourg, etc.,
20 throughout Europe that have assisted us and had developed a
21 lot of the information that would then compel people to come
22 forward and settle with us, notwithstanding the standards
23 of, you know, actual knowledge and (indiscernible).

24 So, those cases -- those efforts, as it were,
25 supported again but SIPC and paid for by SIPC, get us

1 results that I think in the standard liquidation proceeding
2 would be very, very hard to achieve.

3 So, in any event, the three firms that are pretty
4 -- that are significant this time around are Soroker Agmon
5 in Israel. As Your Honor knows, they're -- it's a kind of
6 convoluted case, as it were. It started with Albert
7 (indiscernible) back in the '80s. He's since passed away.
8 He started to fund the Yeshaya Horowitz Association. But
9 Yeshaya Horowitz did not have an account with Madoff. There
10 was a magnify account at Madoff, and that is what funded
11 Yeshaya Horowitz. But then it was disseminated throughout
12 Israel.

13 So, that case is ongoing, it's being actively
14 litigated, and that's why Soroker has a significant 1,618.5
15 hours for the reporting period, because they are, as I said,
16 actively engaged in litigation.

17 The same can be said with regard to Williams.
18 Williams Barristers is in Bermuda. That is where the
19 Kingate Fund is located, the management fund. And so, as a
20 result, there's a lot of active litigation there. I think
21 some of it's been reported to Your Honor in the past. And
22 that's where a lot of the discovery -- we're now commencing
23 depositions in those cases under the auspices of Bermuda
24 law, which is kind of a tricky thing to always get done but
25 we're working on that. And that's why you're seeing

1 Williams Barristers' numbers go up.

2 And Brown Jacobson mostly is involved in
3 supervising for us the actions going on in the commonwealth
4 because there is still the commonwealth, interestingly
5 enough, and the laws pertaining to those still go up through
6 the Privy Counsel and through the English system of the
7 courts. So they assist with that.

8 And then at the same time, we do, as Your Honor
9 knows, a protection action in Kingate that now has taken on
10 more significance in light of the (indiscernible) opinion,
11 so we're --

12 THE COURT: A protective action?

13 MR. SHEEHAN: A protective -- we filed an action
14 against all the defendants there and it's been stayed. With
15 the hope that --

16 THE COURT: In Bermuda?

17 MR. SHEEHAN: No, in England. It's in the U.K.

18 THE COURT: Oh.

19 MR. SHEEHAN: In the English courts. And that's
20 not been actively litigated for years, but it's there just
21 in case the ultimate outcome is that we can't pursue Ceretti
22 and Grosso here; we can pursue them in England. So, that's
23 why that case is also getting a lot of activity. Now we're
24 re-looking at it. There's a lot of discovery that's taken
25 place there. Not in England, I should say, but in Europe.

1 So, mostly in a French proceeding. It's too convoluted to
2 go through the whole thing. But as a result, at the end of
3 the day, we have a lot more information that we're adding to
4 the complaint there.

5 Those are the reason those three... The others
6 are all actively involved in assisting, as I said earlier,
7 mostly in discovery efforts. Then, of course, we of course
8 always have Windels Marx, who has been with us almost from
9 the beginning of the case and has done a superb job as there
10 are still many of these settlements that I reported earlier
11 with regard to good faith cases because of the efforts of
12 Windels Marx.

13 Young Conaway recently also had a very fine
14 settlement that you brought to fruition. So there's been a
15 lot of assistance from each of those individual counsel that
16 we've hired. So, overall, I think the effort over the
17 course of this year has been substantial. And, as I say, I
18 think it will get even better as the year progresses. As a
19 result, SIPC was willing at this point for not just the
20 firm, our firm, Baker, but for all counsel to award a
21 reduction in hold back of 50 percent, which is part of the
22 order submitted to Your Honor, in light of the fact that
23 we've achieved the significant goal of, at this point, \$12
24 billion and probably shortly \$13 billion we'll be
25 collecting.

1 So, there being no objection, Your Honor, to this
2 application this morning, I would now ask that Your Honor
3 approve the order as submitted with regard to these
4 applications.

5 THE COURT: Mr. Bell first has to tell me how long
6 the case is going to be.

7 MR. BELL: Kevin Bell on behalf of the Securities
8 Investor Protection Corporation. I want to pick up where
9 Mr. Sheehan was, and then I'll go to where I was going to
10 go. And I think I would go back to the first pages of the
11 24th application to highlight certain points. And I'm going
12 to do this without my glasses, so this'll be fun.

13 The Trustee has, as he notes, recovered through
14 June 30 over \$12 billion of the 17.552 billion of principal
15 that was missing 3,177 days ago when the whole proceeding
16 started. We are in the last third of the ninth year of this
17 case.

18 The reason I wanted to pick up with Mr. Sheehan is
19 because this is an action under the Securities Investor
20 Protection Act, which was enacted into law in late December,
21 December 30, 1970, to protect customers of stockbrokerages
22 who give money to a broker-dealer and the money's missing
23 because the broker fails financially.

24 This is by far the largest of the 330-plus
25 liquidation proceedings that have been started in this case,

1 and I've probably been on at least one-third of them in my
2 now -- I'm in my 45th year of being with SIPC. But the
3 purpose of it, and Mr. Sheehan started to get into it and I
4 just wanted to follow up on that, is this was set up by
5 Congress as a proceeding -- Judge Rakoff and I have had a
6 dialogue about it under Title 15 under the Federal
7 Securities Laws, so that the industry, the securities
8 industry would pay assessments so that SIPC would have an
9 adequate fund.

10 Because in the mid to late '60s, the New York
11 Stock Exchange, which was the dominant industry leader of
12 broker-dealers, ran out of money in their self-funding
13 mechanism and there was a great debate in the legislative
14 history, which I've read many times, to set something up so
15 that we'd have people who would have confidence in
16 investing.

17 The effort that we have seen reported in these 24
18 applications by BakerHostetler and the Trustee, and the 23
19 or so by Windels and other counsel just follows what the
20 guidance was of all that legislative history. That we would
21 put the confidence back in the industry. And there is
22 confidence because -- I had a phone call yesterday with an
23 individual who had an allowed claim and he was able -- the
24 Trustee allowed it for about \$2.3 million, and he was able
25 to sell it for 1.8 to a claims trader and get his money, and

1 he -- retired lawyer, had a very -- we had a very good
2 discussion about it because there is this fund now that Mr.
3 Bredan is administering, and he was somewhat confused with
4 some of what Mr. Bredan's people were saying. But I went to
5 talk to him and it's always enlightening when you talk to
6 the innocent victims, to see how pleased they are that we
7 have this protection system here.

8 And Mr. Sheehan talked about SIPC's advances.
9 Well, we're not there yet. There are still 900 -- I think
10 it's 965 customers who have allowed claims, who have not
11 been fully satisfied. And I think my corporation has an
12 obligation under the law to keep funding the Trustee as long
13 as there are viable causes of action.

14 And as the Court knows from my past statements,
15 you know, there's been eight interim distributions and I
16 know, as Mr. Sheehan's saying, I get the inkling, there will
17 be a ninth in the near future -- where the Trustee has
18 distributed 9.725 billion, in Paragraph 2 of their
19 application, to customers with allowed claims, including the
20 SIPC advance under the statutory mandate with the limitation
21 of \$500,000 -- SPIC has advanced about \$840 million to the
22 Trustee to satisfy those claims.

23 We have advanced more than that for all the
24 administrative cost. Because we -- and I just wanted to put
25 this on the record, is that no administrative cost including

1 every penny that has been paid pursuant to the 23 prior
2 orders of this Court for the Trustee and his counsel, all
3 special counsel, all consultants, everybody who works on
4 this case comes out of -- not one penny comes out of these
5 over 12 billion in recoveries. Most chargeable to the
6 general estate and the mechanism in the amended statute is
7 that SIPC pays everything. In the early days, and I worked
8 on the Weiss case, it was allocated between the customer --
9 between what was then the fund of customer property, what is
10 now called the fund of customer property and the general
11 estate. The SIPC board didn't like that. We went to
12 Congress. And on May 25, 1978 the statute was changed,
13 fortunately, that SIPC pays the whole loan.

14 So, every penny recovered by these efforts go to
15 satisfying allowed claims, and the -- that just puts us in
16 context this far into the case. Now, as to our
17 recommendations, as the Court knows, the statute at 78EEEB5A
18 says where there's now an asset case -- and in here the
19 Trustee does say there's no reasonable expectation that
20 we'll get to 100 percent or we'll have enough for a general
21 estate -- maybe that'll change -- then SIPC recommendation
22 is accepted by the Court or the Court reviews our
23 recommendation, ask me questions if they wish, and SIPC will
24 advance the funds to pay it.

25 As to the holdback, SIPC has been since the

1 beginning requesting that there be money held back. And the
2 decision was made by SIPC's president and general counsel,
3 myself, to reduce that holdback because of the excellent
4 effort... The last reduction holdback was one year ago, so
5 we look in the year that's happened and this year has been
6 very good. And I think that later in the year the Court
7 will see it's been really very good -- to reduce this
8 holdback, and we think there is a sufficient amount there
9 for our purposes for oversight.

10 I would call the Court's attention to our
11 recommendation, SIPC's recommendation on BakerHostetler or
12 at Paragraph 6 of the recommendation where we note that
13 there -- besides the 10 percent, there were other reductions
14 as we reviewed the fee applications, which are graciously
15 accepted by BakerHostetler when we made the recommendations
16 that there be reductions, and that's about 13.88 percent off
17 their normal billing rates.

18 Similarly, at Paragraph 3 of the Windel Marx
19 recommendation, it shows that that number is about 15.23
20 percent of the normal billing rates. And, similarly, for
21 the 21 other fee applications that are before the Court,
22 there has been similar oversight. There are a few of these
23 that are only for a reduction of holdback because in this
24 fee period from December 16 to March, end of March 17,
25 certain counsel did not expend any time but they've expended

1 that in the past.

2 So, therefore, based on all of that and on our
3 recommendations, we would ask that the Court approve all 23
4 fee applications that are before the Court, and I am here to
5 answer any questions that Your Honor may have.

6 THE COURT: Thank you.

7 MR. BELL: Thank you.

8 THE COURT: Does anyone else want to be heard? In
9 light of the representational prediction that this is
10 essentially an insolvent general estate, SIPC's
11 recommendation and the requirements in the statute, I'll
12 approve the fee applications and request for reimbursement
13 of expenses. Thank you very much. You can submit an order.

14 MR. SHEEHAN: Thank you, Your Honor.

15 THE COURT: Yes.

16 (Whereupon these proceedings were concluded at
17 10:33 AM.)

18

19

20

21

22

23

24

25

I N D E X

RULINGS

Page Line

Fee applications and request for reimbursement

of expenses Approved

24

12

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.

Sonya
Ledanski Hyde

Digitally signed by Sonya
Ledanski Hyde
DN: cn=Sonya Ledanski Hyde, o,
ou, email=digital1@veritext.com,
c=US
Date: 2017.08.24 16:28:32 -04'00'

Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: August 24, 2017